

Exhibit 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY : CIVIL TERM : PART 12
-----X
In the Matter of the Application of
MARIAH LOPEZ,

Petitioner,

INDEX NO.
100032/2017

-against-

NEW YORK CITY DEPARTMENT OF HOMELESS
SERVICES and PROJECT RENEWAL,

Respondents.

-----X
May 15, 2017

60 Centre Street
New York, New York

B E F O R E :

HON. BARBARA JAFFE,

Supreme Court Justice.

A P P E A R A N C E S :

MARIAH LOPEZ
480 East 185th Street
Bronx, New York 10458
Petitioner Pro Se

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL
100 Church Street
New York, New York 10007
BY: THOMAS B. ROBERTS, ESQ.
Attorneys for the Respondent
City of New York

KAREN MENNELLA
Senior Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A P P E A R A N C E S (Cont'd):

NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES
HUMAN RESOURCES ADMINISTRATION

150 Greenwich Street, 30th Floor
New York, New York 10007

BY: TONIE BAEZ, ESQ.

Attorneys for Respondents

NYC Department of Homeless Services
and Project Renewal

Proceedings

THE COURT: Good morning.

MS. LOPEZ: Good morning, Your Honor.

MS. BAEZ: Good morning, Your Honor.

MR. ROBERTS: Good morning, Your Honor.

THE COURT: So what happened over the weekend? Do you want to go first?

MS. LOPEZ: Sure. Well, I just wanted to put on the record first that I believe counsel knowingly misrepresented that there were no beds. As soon as I got back to the facility there were -- I have video -- four whole entire rooms with single beds and three other with double beds. So they don't have any issue with capacity.

And I would just like to inform the court that I believe that this is the second attempt that City counsel and the other counsel is trying to mislead as a last ditch effort to try to sway the outcome of the pleading. And I believe that they being so dishonest on something so verifiable that either the witnesses or the staff at Marsha's directly or the City's attorneys cannot be deemed as credible.

Overall, I had a relatively peaceful weekend. I would say that --

THE COURT: Slow down.

MS. LOPEZ: I had a relatively peaceful weekend. I felt a bit harassed, because there were an excess of DHS

Proceedings

1
2 police present and walking around the facility. You're
3 right, I actually had several instances where we shared
4 casual conversation. So overall the weekend was without
5 incident. This morning, though, the same cook staff in
6 question, even though the meal -- the designated mealtime is
7 7:00 to 8:15 and it's very standard, especially on a Monday,
8 for people to walk in at 8 o'clock and get full nutritional
9 benefits of the meal, when I walked in and the other
10 transgender person that walked in, who is also over age and
11 complaining a lot about being mistreated, that person and I
12 were not fed. I have a video of that.

13 I have also asked the Bronx District Attorney's
14 office to open an investigation criminally into whether or
15 not the fact that me and the other person are disabled
16 violates any penal law of someone to intentionally withhold
17 food. I would just ask this court to uphold my TRO in the
18 interim given that there haven't been any instances and that
19 a personnel change would be the easiest way to alleviate the
20 fears of this one employee. I do not pose a significant
21 risk to this facility.

22 And I've attempted, before the proceedings today,
23 to reach a settlement off the record with counsel that would
24 allow for maybe an interim third-party entity to be placed
25 in the facility while I'm there, maybe an administrator or
26 someone to help. Cadon Grennell, who is the director, sort

Proceedings

1
2 of run things. But, Your Honor, this is a little
3 uncomfortable for me, but Cadon has sexually harassed or, I
4 believe, because I didn't reciprocate --

5 THE COURT: I'm sorry, who?

6 MS. LOPEZ: The director that --

7 THE COURT: Mentioned in your papers?

8 MS. LOPEZ: And he's here today. And I informed
9 counsel on Friday and in an e-mail that Cadon had contacted
10 me inappropriately before I was even a resident of the
11 facility. So all of this, I think, is connected to the fact
12 that I am being the proverbial squeaky wheel and blowing the
13 loudest whistle possible. And I also brought serious
14 complaints from the other clients, including consensual
15 sexual intercourse with staff. But the fact that there was
16 so much going on with the facility being open for so little
17 time, I believe that Cadon Grennell was acting in his own
18 best interest to try to expedite the administrative transfer
19 that led to these proceedings.

20 THE COURT: You just said Marsha's Place. How long
21 has it been open?

22 MS. LOPEZ: Three months. It's very new, Your
23 Honor.

24 THE COURT: It's new.

25 MS. LOPEZ: And all of the staff, all of the direct
26 care staff, identify as heterosexual, sis, non-transgender.

Proceedings

I don't know any other facility of a comparable demographic whose hired administration and direct care staff have either no experience direct with this population or don't themselves identify as either LGBT or Q.

MR. ROBERTS: Your Honor, several things. There were incidents this weekend. I have incident reports from Friday night and Saturday morning. If I could offer that. And I have here --

THE COURT: Well, I want you to give it to Miss Lopez.

MS. LOPEZ: I have a copy.

MR. ROBERTS: I just gave her a copy. So because there was so much uncorroborated statements, I have here today outside Mr. Cadon Grennell, who's the director of Marsha's House. And if you had questions you wanted to ask him concerning the operation, he's available to do that. I have also the cafeteria worker who Miss Lopez is now trying to get criminal proceedings brought against. She came also.

There was apparently another dispute because they ran out of food this morning because there was not a delivery, and she feels discriminated against because the eggs were gone, but they got her cereal. That's the level we're dealing with. We're dealing with, you know, things about -- high school stuff about food. And then I also have here the program director. Those two that I mentioned were

Proceedings

1
2 employees of Project Renewal who operate Marsha's House, the
3 shelter. They're not city employees. I also have outside
4 the program administrator for the WIN West Center, who is a
5 city employee, who could describe the program at the WIN
6 West Center. And the WIN West Center has mental health
7 capacity at the site, unlike Marsha's House. So there will
8 be not only all this conflict that Miss Lopez continues to
9 have at Marsha's House can be terminated, but there are, in
10 our belief, that she'll have a better experience and be able
11 to access appropriate services better at the WIN Center.

12 With regard to the normal showing, you have to show
13 irreparable harm to obtain a preliminary injunction or a
14 TRO. The irreparable harm was argued last week on Friday
15 was that some client might disrespect Miss Lopez at the
16 facility. There are efforts made to take care of that. But
17 if that risk occurs at the Marsha's Center, and the report
18 that I've shown you here, shows that on Friday night,
19 Saturday morning Miss Lopez apparently felt disrespected by
20 some other client who closed the door on --

21 MS. LOPEZ: That's the staff, and I have video. Do
22 not misrepresent.

23 THE COURT: I'll hear you out.

24 MR. ROBERTS: So if, indeed, the staff is unable to
25 deal with her, I would of thought the normal case would be
26 someone saying get me out of here, put me somewhere else,

Proceedings

1
2 which is what we're trying to do, which will be a better
3 facility. The alleged harm is that a non-city employee may
4 disrespect. And with all due respect, that unfortunately
5 can happen in any city shelter, including Marsha's House and
6 it is not irreparable harm. It is just part of living in
7 city shelters. And to presume that there will be a perfect
8 city shelter where no client will ever get in a disagreement
9 with another client is just there's no basis for that. And
10 being moved to the new one is not irreparable harm.

11 And I'm just sort of astounded. We got an
12 individual who's had nothing but conflict in the facility
13 she's in. We're trying to put her in a more appropriate
14 place and we're not being allowed to do that. And I don't
15 understand why we can't try to run our operation in a
16 peaceful way and resolve this.

17 THE COURT: We will try to resolve it.

18 MR. ROBERTS: I hope so. But, I mean, it's not --
19 essentially, she's bringing criminal -- trying to bring
20 criminal charges against the employee.

21 THE COURT: Right now there are no criminal charges
22 pending, correct?

23 MS. LOPEZ: I've informed the proper --

24 THE COURT: That's all that's happened, right, Miss
25 Lopez?

26 MS. LOPEZ: Yes, Your Honor.

Proceedings

THE COURT: Nothing else has happened.

MS. LOPEZ: It's only Monday.

THE COURT: I'm not a Criminal Court judge. It's not before me right now. So let's --

MS. LOPEZ: Can I address this?

THE COURT: Hold on.

MR. ROBERTS: I think the employees at Project Renewal are advising Mr. Grennell that they feel that they are having to work in a hostile work environment. They shouldn't have to be subject to that. They should be able to work in a place where they're not feeling threatened.

I would like to submit the following. I've got six incident reports where she's threatening employees. I will not -- she has not physically attacked them, but there's a consistent pattern of telling people we'll get you outside of work or I'll have you fired, I'll have you reported. The proposition that this warrants protection is really wrongful. So I'd like to offer -- here is the report.

MS. LOPEZ: I was there in the first person, Counsel. I don't need to necessarily read this.

MR. ROBERTS: And just, Your Honor --

THE COURT: I think, you know, all this might be perfectly good evidence for later on. You're kind of putting the cart before the horse. Given everybody -- I want to give Miss Lopez an opportunity to be heard. I want

Proceedings

1
2 to give you an opportunity to be heard. But perhaps this is
3 for a hearing maybe down the pike. I don't know. Right now
4 let's look at the -- I took a really good look at the
5 papers, and I took a really good look at the law and right
6 now we're -- I see that you did get a bed for her.

7 MR. ROBERTS: Yes.

8 THE COURT: Okay. There is some problems on her
9 part. She also says there are problems. I mean, this is a
10 two-sided dispute, Mr. Roberts, right?

11 MS. LOPEZ: Actually, I would argue, Your Honor,
12 about 11-sided, because most of the other first person
13 individuals aren't here and were offered to come, but I
14 explained to them the procedure. They also thought this
15 would not be a hearing today.

16 THE COURT: I'm not holding a hearing today.

17 MS. LOPEZ: May I just address --

18 THE COURT: Maybe there are 11 sides. Who knows
19 how many sides there are. There are sides. But I wanted
20 strictly to go by the law. And I would note that on my own
21 motion I can make this an application for a TRO or a stay,
22 even though it's not really, you know, take a good look at
23 everything over the weekend, this is really just seeking a
24 preliminary injunction. It's a regular, ordinary
25 proceeding.

26 MR. ROBERTS: For what it's worth, I've never

Proceedings

received a copy of the papers.

THE COURT: Yes. That's my next order of business. I am going to sign the OSC. I'm going to add to it that the stay, pending determination of this proceeding, Respondents are stayed from enforcing the transfer or referral of Plaintiff to the WIN West shelter.

Now, that raises some issue, Mr. Roberts. Is there anywhere else she can go?

MS. LOPEZ: Your Honor --

THE COURT: I asked him. I'll ask you after.

MR. ROBERTS: So if she -- I understand there are other sites. We would be willing to talk to Miss Lopez. If she's willing to move to another site, we can try that.

THE COURT: But are there other sites that accommodate transgendered?

MS. BAEZ: Your Honor, we accommodate transgender clients at all of the facilities.

THE COURT: Are there any that are more known for it?

MR. ROBERTS: There are facilities that have been specially trained. So we could try to look for placement within one of those facilities and try to find a similar facility. So that is a possibility.

THE COURT: Just a question, Miss Lopez, okay. That's a possibility that maybe you want to discuss with

Proceedings

1
2 them?

3 MS. LOPEZ: I actually attempted to do that before
4 we walked in here.

5 THE COURT: Okay. Why don't you take a few minutes
6 off the record and discuss it and see what you can come up
7 with.

8 MS. LOPEZ: Sure.

9 THE COURT: In the meantime -- and then we'll go on
10 to address this further, okay.

11 MS. LOPEZ: Sure. They've just been very nasty to
12 me.

13 THE COURT: Talk to them. Make nice. You could
14 step out with her.

15 (Pause in proceedings.)

16 MR. ROBERTS: Your Honor, Miss Lopez just walked
17 away from us before we could even advise her the name of the
18 other location.

19 THE COURT: Okay. Give me the name. What's the
20 name?

21 MS. BAEZ: The Broadway House. It was the
22 original -- prior to WIN West, that was the facility that we
23 were looking at to place her.

24 THE COURT: Okay.

25 MS. LOPEZ: So, Your Honor, a couple of things in
26 order, if I may just address for the record. So the

Proceedings

1
2 incident over the weekend appeared to be Project Renewal
3 doing everything they could do to document any sort of even
4 minutely out-of-line thing. What occurred, though, which
5 should be concerning to the DHS counsel, are repeated, on
6 video documented incidents of the staff mis-gendering
7 transgender people.

8 And, Your Honor, I think that this is an important
9 point that I cannot emphasis enough. To mis-gender, to call
10 a transgender woman sir or call him him is tantamount to
11 using the N word. It is totally unacceptable, violation of
12 New York City Human Rights Law, State Human Rights Law, in
13 some instances interpreted as violating Federal PTSD
14 protections under the ADA. So what happened this weekend
15 was me, because I knew I would be under a microscope,
16 confronting, by request, each staff that would use the wrong
17 pronouns. In addition to that, just so you know, because I
18 think it's important if officers of the court are being
19 misled by employees there, I had an incident with an
20 employee who was seen buying an illegal substance across the
21 street and then coming back into the facility. That's the
22 person he cited. And it's not a -- it's not a resident.
23 It's an employee.

24 So addressing where I could go, Your Honor, I
25 believe that on the day of the Federal Court proceedings the
26 judge heard their arguments around Broadway. It was entered

Proceedings

1
2 into, it was expounded upon on the record across the street
3 on why it was so amazing and the best facility for me. Now
4 it's WIN West is the best facility for me. Your Honor, I'm
5 not trying to mock them. I am transgender, and I have the
6 right to be around people that are transgender. I also have
7 the right not to be forced back into the closet. And these
8 facilities accommodating transgender people doesn't mean
9 that I'm not going to have to either hide the fact that I'm
10 transgender or be peppered with harassment and inappropriate
11 questions.

12 THE COURT: Miss Lopez, let's cross that bridge
13 when we come to it.

14 MS. LOPEZ: Okay, Your Honor.

15 THE COURT: Let's first talk about Broadway Place,
16 which is what I sense you want to discuss.

17 MS. LOPEZ: True.

18 THE COURT: If you don't want to discuss it
19 outside, let's discuss it here.

20 MS. LOPEZ: Sure.

21 THE COURT: How about it?

22 MS. LOPEZ: So the problem is that, Your Honor, I
23 just said to him before I came in here, before the
24 proceeding started, that I was open to hearing --

25 THE COURT: Water under the bridge. Now, what
26 about --

Proceedings

1
2 MS. LOPEZ: No, I just don't want to be jerked
3 around. I'm not willing to be thrown into a facility --

4 THE COURT: I don't want you either to be jerked
5 around and I'm trying to stop it. So let's talk about
6 Broadway Place. How about it? That's my question.

7 MS. LOPEZ: No. Not because I'm raising concerns
8 with people and they want me out. No, Your Honor. I will
9 not concede to being moved because every one of the staff
10 have a conflict of interest and they're creating a never
11 ending paper trail to support an erroneous argument. I'm
12 not going to be put anywhere but with transgender people.
13 In a transgender specific location.

14 THE COURT: Miss Baez, are there transgendered
15 women at Broadway Place?

16 MS. BAEZ: I don't know if there's currently any
17 transgender women currently placed there today.

18 THE COURT: But there are at Marsha's Place and
19 there are at WIN West, correct?

20 MS. BAEZ: Yes.

21 THE COURT: Any other places.

22 MS. BAEZ: I wouldn't know. There are several
23 transgender clients throughout the system, but I would be
24 able to tell you specifically what facilities they're
25 currently in.

26 THE COURT: I certainly don't think it's an

Proceedings

1
2 unreasonable position. Whether it will eventually prevail
3 is another issue. But in the first instance, it's not
4 entirely unreasonable given the circumstances. The news
5 media has a lot about violence against transgender people and
6 I'm mindful of that. And I think that, Miss Lopez, whether
7 it's a realistic concern at WIN West, I can't say. Or at
8 anyplace I can't say. None of us can say what's going to
9 happen tomorrow. But we do know that there are issues.

10 MS. BAEZ: Your Honor, the City would be willing to
11 look into whether there are transgender clients at Broadway
12 House. If there aren't and that is of concern to Miss
13 Lopez, there are 12 mental health facilities that we could
14 look at, if that's an issue and we need to be specifically
15 looking for a site with other transgender individuals, we
16 may be able to find the placement for her that would fit
17 that.

18 THE COURT: How about that? Finding -- hang on
19 here. Hear me out.

20 MS. LOPEZ: I refuse to entertain the option where
21 the City counsel put forth that it be a mental health
22 facility.

23 THE COURT: I am going to totally delete that. I
24 was going to mention that. Miss Lopez, I was going to say
25 where there are other transgendered women.

26 MS. LOPEZ: That's the other thing, Your Honor.

Proceedings

1
2 THE COURT: Is that a yes or no?

3 MS. LOPEZ: No, because that forces them to reveal
4 they're trans. What are we doing here? What are we doing?
5 Saying that to another transgender person in the shelter
6 show yourself so we can send her there? It's preposterous.
7 What is underlying these proceedings is the fact that a new
8 facility named for my organization's founder was opened too
9 soon with staff that are untrained and they got proverbial
10 squeaky wheel and the loudest whistle.

11 At the end of the day what this is about is I will
12 not abandon -- I will not abandon the peers that I have
13 there. And I will not be forced into the closet or allow or
14 even support the City to go on a searching expedition for
15 where there are other transgender people, by which the
16 medical protocols say once you have a SRS you're supposed
17 to, if you choose, become stealth.

18 THE COURT: I thought that's what you wanted.
19 Maybe I misunderstood.

20 MS. LOPEZ: Then what is it that you believed and
21 allow me to --

22 THE COURT: That you wanted to be with other
23 transgendered women.

24 MS. LOPEZ: I'm in a unique position, Your Honor.
25 And as the executive director of Star and a quasi-celebrity.
26 I do not have the option of sort of remaining completely

Proceedings

1
2 stealth always. I'm referring, though, that your previous
3 inquiry about other transgender people would force, unless
4 these transgender people have always wore this on their
5 sleeve, this attorney to go searching for either transgender
6 identified individuals or prove that other people are
7 transgender, this is what we're doing here. This is what
8 we're litigating.

9 THE COURT: I don't really think so, Miss Lopez. I
10 think it's a good faith response from Miss Baez just to try
11 to accommodate you.

12 MS. LOPEZ: Sure. I want to say I cannot reiterate
13 enough, besides myself and the court, I believe everyone
14 here are attorneys and what's happening is that there were
15 GLBTQ people that are not being treated right, including
16 myself, and the label of needing mental health or extra
17 mental health protections because of their response to
18 mistreatment is out of line.

19 MR. ROBERTS: Your Honor, just one correction.
20 When we were in front of Judge Caproni there was no
21 discussion of the nature of Broadway House. That was not --
22 the issue was about the dog. We did say we wanted to
23 transfer her there, but there was no discussion concerning
24 that facility or its program. So I just want to correct
25 that for the record.

26 THE COURT: Fine. Right now Miss Lopez indicates

Proceedings

1
2 she's not interested in Broadway Place or House, whichever
3 it is. At any rate, so I know that. Let's move on to what
4 I'm going to do here. I did sign this. I'm going to grant
5 a stay. The issue is if there's nowhere else right now she
6 should be at Marsha's Place in the interim pending my
7 determination on the PI. That's what I'm doing. And just
8 like Judge Caproni did, it will be contingent on Miss Lopez
9 abiding by the rules, trying to get along. If you can't --
10 what is it? If you can't get along without going along or
11 something like that.

12 MS. LOPEZ: Yes, Your Honor.

13 THE COURT: Absent anything illegal, immoral
14 effect, you're going to get along, right?

15 MS. LOPEZ: Yes. Your Honor, may I please? May I
16 please?

17 THE COURT: Not right now. That's a condition of
18 your remaining at Marsha's House.

19 MS. LOPEZ: Yes, Your Honor.

20 THE COURT: And should I hear something to the
21 contrary, I'll listen. I will listen. That's all I do as a
22 judge right now. I listen. You can't be --

23 MS. LOPEZ: No, I meant at Marsha's, Your Honor.

24 THE COURT: So that can I deem you served with
25 these papers? Have you been served with these?

26 MR. ROBERTS: No, I have not been served. I have

Proceedings

never seen them.

THE COURT: Okay. You're going to serve them with your papers.

MS. LOPEZ: Yes, Your Honor.

THE COURT: What's the quickest you can -- knowing that the quickest you can do it the more we can resolve this, when can you do that? Personal service, which means --

MS. LOPEZ: I have doctors payments today, Monday. Can I do it by Wednesday morning; is that unreasonable?

THE COURT: Wednesday morning. And then you can either appear in op or file an answer, whatever you want to do. How long do you need after you're served?

MR. ROBERTS: Well, how long --

THE COURT: And then the return date would be shortly thereafter.

MR. ROBERTS: So I haven't seen the papers. I don't know how hard it is to answer, but I assume -- may I look?

THE COURT: I can't hear you. I think you pretty much know what's in them, but they'll be served.

MR. ROBERTS: Well, we'll file some appropriate response within the week, the following Wednesday; is that appropriate?

THE COURT: The following Wednesday.

Proceedings

MR. ROBERTS: So the 17th, I guess it's the 24 then.

THE COURT: Before 5:00 p.m. And the return date shall be on May 31st. That's my regular motion day.

MS. LOPEZ: Thank you, Your Honor. Mr. Casper will let you know what time.

MR. ROBERTS: Your Honor, could you provide some clarity about what you mean that she has to comply with the rules? Because threatening the staff is against the rules and there are a lot of rules, but I would like to know what it is you understood by that. But it does seem to me if she's threatening the staff we should be able to come back here.

THE COURT: Well, certainly that would be not be appropriate behavior, nor would any inappropriate behavior by staff be allowed. But I cannot be ordering them, but I would assume that they would be also behaving themselves. Everybody should be behaving themselves.

MR. ROBERTS: But if she threatens staff, they can transfer her?

MS. LOPEZ: Threaten for what? To sue them is different, is civil.

THE COURT: She knows, just like Judge Caproni said, she has to behave herself, abide by the rules. I wouldn't be threatening people. That's not a good idea.

1 Proceedings

2 MS. LOPEZ: Yes, Your Honor. But I cannot -- Your
3 Honor, I just want to be clear, because I do not even agree
4 on the record if I --

5 THE COURT: I understand that there's no finding
6 here about anything.

7 MS. LOPEZ: I mean, to abide, I'm not going to
8 abide by rules that require me to stand by if someone is
9 being mis-gendered in front of me. That's all. That's all.
10 I, of course, will follow curfew.

11 THE COURT: Miss Lopez, right now you have a case
12 pending. And I certainly understand and, you know, it's
13 nice that you want to defend people and do this, but for the
14 time being maybe you should stand back because you have a
15 bigger -- don't you have a bigger goal here?

16 MS. LOPEZ: Yes, Your Honor.

17 THE COURT: Right. Think about your bigger goals.

18 MS. LOPEZ: Yes, Your Honor.

19 THE COURT: Which is --

20 MS. LOPEZ: Yes, Your Honor.

21 THE COURT: That's self-described, by the way. So
22 if I were you, I would be very careful. Very careful.

23 MS. LOPEZ: Yes, Your Honor.

24 THE COURT: And I would avoid all potentials,
25 because it's not just your case, it's a bigger issue now.

26 MS. LOPEZ: Your Honor, yes. Thank you.

Proceedings


THE COURT: All right. Thank you. And I'll write that into the order. As soon as I finish, I'll bring it out.

MR. ROBERTS: Is that both parties?

THE COURT: If you want to remain. I have to give this back to you, so give me a few minutes, let me go in the back and settle this up appropriately.

C E R T I F I C A T E

I, Karen M. Mennella, a Senior Court Reporter for the State of New York do hereby certify that the foregoing is a true and accurate transcription of my original stenographic notes.



Karen M. Mennella,
Senior Court Reporter